

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BOSTON FEDERAL SAVINGS BANK,)	
)	
Plaintiff,)	
)	Case No. 04-10474-GAO
v.)	
)	
MICHELE A. DEANGELIS,)	
HAROLD B. MURPHY, TRUSTEE,)	
CHAMPION MORTGAGE CO., INC.,)	
SHAUN CARVELLI D/B/A ARTISTIC)	
INTERIOR, ELLEN R. MARCUS,)	
MARK T. COLLINS,)	
MASSACHUSETTS DEPARTMENT OF)	
REVENUE, and INTERNAL)	
REVENUE SERVICE,)	
)	
Defendants.)	
)	

UNITED STATES' OPPOSITION TO
PLAINTIFF'S MOTION TO DEPOSIT IN COURT AND TO DISMISS PLAINTIFF

The Plaintiff has brought this interpleader action following the foreclosure of real property formerly owned by Michele DeAngelis. The Plaintiff has brought this action to obtain court direction to dispose of the surplus funds following the foreclosure.

At this time, the United States opposes the Plaintiff's motion to deposit the surplus funds into court and to withdraw. The ground for this opposition is that the Plaintiff has not submitted Proof of Service on each of the defendants. The Plaintiff filed this action in Suffolk County Superior Court on January 23, 2004. The defendants, Shawn Cavelli, Champion

Mortgage and Michele DeAngelis answered the Complaint and the Commonwealth of Massachusetts disclaimed while the action was pending in Suffolk County Superior Court. On March 9, 2004, the United States removed the case to U.S. District Court and answered the Complaint. To date, the defendants, Harold B. Murphy, Ellen R. Marcus, and Mark T. Collins have not answered or been defaulted. Put simply, the Plaintiff has not finished its work in this case, and therefore, should not be permitted to withdraw at this time.

As a further note, counsel fees of \$3,479.21 appear to be higher than the regular counsel fees for other interpleader plaintiffs, and in any event, may not be awarded to Plaintiff in any amount if such an award would diminish the amount of the distribution to which the United States would otherwise be entitled in respect of its lien for unpaid taxes. See Nason v. Taylor, 351 Mass. 347 (1966).

MICHAEL J. SULLIVAN
United States Attorney

/s/ Stephen J. Turanchik

STEPHEN J. TURANCHIK
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 55
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 307-6565

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing United States' Response to Plaintiff's Motion to Deposit in Court and To Dismiss Plaintiff has been made upon the following by depositing a copy in the United States mail, postage prepaid, this 19th day of March, 2004:

Michele DeAngelis
c/o David C. Levin, Esq.
875 Southern Artery
Quincy, MA 02169

Walter B. Sullivan
80 Washington Square, Suite 7
Norwell, MA 02061

Harold B. Murphy, Trustee
Hanify & King, P.C.
One Beacon Street
Boston, MA 02108-3107

Ellen R. Marcus
110 Clark Road
Brookline, MA 02446

Adam J. Ruttenberg, Esq.
Looney & Grossman, LLP
101 Arch Street
Boston, MA 02110

Mark T. Collins
329D Boston Post Road
Sudbury, MA 01776

Edward P. McCarthy, Esq.
Rosen & McCarthy, LLP
4 Whittier Road
Natick, MA 01760

/s/ Stephen J. Turanchik

STEPHEN J. TURANCHIK
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 55
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 307-6565